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OPINIONS AND DECLARATIONS RENDERED BY THE INTER- NATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

Edited by

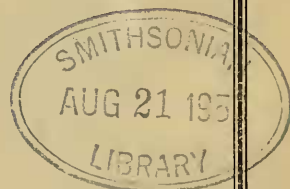
FRANCIS HEMMING, C.M.G., C.B.E.

Secretary to the Commission

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OPINION 405

Use of the Plenary Powers to secure that the specific name *philomelos* Brehm, 1831, as published in the combination *Turdus philomelos* shall be the oldest available specific name for the Song Thrush (Class Aves)



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INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

COMPOSITION AT THE TIME OF THE ADOPTION OF THE RULING GIVEN IN OPINION 405

A. The Officers of the Commission

Honorary Life President: Dr. Karl Jordan (*British Museum (Natural History), Zoological Museum, Tring, Herts., England*)

President: Professor James Chester Bradley (*Cornell University, Ithaca, N.Y., U.S.A.*) (12th August 1953)

Vice-President: Senhor Dr. Afranio do Amaral (*Sao Paulo, Brazil*) (12th August 1953)

Secretary: Mr. Francis Hemming (*London, England*) (27th July 1948)

B. The Members of the Commission

(*Arranged in order of precedence by reference to date of election or of most recent re-election, as prescribed by the International Congress of Zoology*)

Professor H. BOSCHMA (*Rijksmuseum van Natuurlijke Historie, Leiden, The Netherlands*) (1st January 1947)

Senor Dr. Angel CABRERA (*Eva Peron, F.C.N.G.R., Argentina*) (27th July 1948)

Mr. Francis HEMMING (*London, England*) (27th July 1948) (*Secretary*)

Dr. Joseph PEARSON (*Tasmanian Museum, Hobart, Tasmania, Australia*) (27th July 1948)

Dr. Henning LEMCHE (*Universitetets Zoologiske Museum, Copenhagen, Denmark*) (27th July 1948)

Professor Teiso ESAKI (*Kyushu University, Fukuoka, Japan*) (17th April 1950)

Professor Pierre BONNET (*Université de Toulouse, France*) (9th June 1950)

Mr. Norman Denbigh RILEY (*British Museum (Natural History), London*) (9th June 1950)

Professor Tadeusz JACZEWSKI (*Institute of Zoology, Polish Academy of Sciences, Warsaw, Poland*) (15th June 1950)

Professor Robert MERTENS (*Natur-Museum u. Forschungs-Institut Senckenberg, Frankfurt a. M., Germany*) (5th July 1950)

Professor Erich Martin HERING (*Zoologisches Museum der Humboldt-Universität zu Berlin, Germany*) (5th July 1950)

Senhor Dr. Afranio do AMARAL (*S. Paulo, Brazil*) (12th August 1953) (*Vice-President*)

Professor J. R. DYMOND (*University of Toronto, Toronto, Canada*) (12th August 1953)

Professor J. Chester BRADLEY (*Cornell University, Ithaca, N.Y., U.S.A.*) (12th August 1953) (*President*)

Professor Harold E. VOKES (*Johns Hopkins University, Baltimore, Maryland, U.S.A.*) (12th August 1953)

Professor Béla HANKÓ (*Mezőgazdasági Múzeum, Budapest, Hungary*) (12th August 1953)

Dr. Norman R. STOLL (*Rockefeller Institute for Medical Research, New York, N.Y., U.S.A.*) (12th August 1953)

Mr. P. C. SYLVESTER-BRADLEY (*Sheffield University, Sheffield, England*) (12th August 1953)

Dr. L. B. HOLTHUIS (*Rijksmuseum van Natuurlijke Historie, Leiden, The Netherlands*) (12th August 1953)

OPINION 405

USE OF THE PLENARY POWERS TO SECURE THAT THE SPECIFIC NAME "PHILOMELOS" BREHM, 1831, AS PUBLISHED IN THE COMBINATION "TURDUS PHILOMELOS" SHALL BE THE OLDEST AVAILABLE SPECIFIC NAME FOR THE SONG THRUSH (CLASS AVES)

RULING:—(1) Under the Plenary Powers the specific name *ericetorum* Turton, 1807, as published in the combination *Turdus ericetorum*, is hereby suppressed under the Plenary Powers for the purposes of the Law of Priority but not for those of the Law of Homonymy.

(2) The under-mentioned specific name is hereby placed on the *Official List of Specific Names in Zoology* with the Name No. 705: *philomelos* Brehm, 1831, as published in the combination *Turdus philomelos*.

(3) The under-mentioned specific name is hereby placed on the *Official Index of Rejected and Invalid Specific Names in Zoology* with the Name No. 271: *ericetorum* Turton, 1807, as published in the combination *Turdus ericetorum*, as suppressed under the Plenary Powers under (1) above.

I.—THE STATEMENT OF THE CASE

On 19th October 1950 the following application relating to the specific name to be used for the Song Thrush was submitted to the Commission by the Standing Committee on Ornithological Nomenclature established by the Tenth International Ornithological Congress, Uppsala, 1950, under cover of a letter from Colonel Richard Meinertzhagen, the Chairman of the Committee:

AUG 1 1956

Proposed use of the Plenary Powers to validate the trivial name
 "philomelos" Brehm, 1831, as published in the combination
 "Turdus philomelos", as the trivial name of the Song Thrush

Application submitted by the
 Standing Committee on Ornithological Nomenclature of the
 International Ornithological Congress

Covering letter dated 19th October, 1950, with enclosure, from
 Colonel R. Meinertzhagen, Chairman of the Standing Com-
 mittee on Ornithological Nomenclature of the International
 Ornithological Congress

As Chairman of the Standing Committee on Ornithological
 Nomenclature, I beg to forward to you the following recommendation
 for favour of decision by the International Commission on Zoological
 Nomenclature.

ENCLOSURE

"Turdus philomelos" versus "Turdus ericetorum"

Turdus philomelos Brehm, 1831 (*Handb. Naturg. Vög. Deutschl.:*
 322) ("Germany") is the name which has been used for about forty-
 five years for the Song Thrush.

Turdus ericetorum Turton, 1807 (*Brit. Faun.* 1: 35) ("England"),
 founded on plate 63 of Lewin's *British Birds* (2: 68) published in 1796,
 was adopted without explanation in 1934 (*Ibis* 76: 635) for the Song
 Thrush by the Nomenclature Committee of the British Ornithologists'
 Union, as it antedates *Turdus philomelos* Brehm, 1831.

In 1924 (*Ibis* 66: 158) the British Committee had rejected Turton's
 name, as Lewin's figure is not definitely assignable to the Song Thrush
 and possibly represents an American Thrush. This doubt still
 remains, especially as Lewin states that his bird is perfectly distinguish-
 able from the Song Thrush, with which he was well acquainted. Lewin
 also states that his bird "has a short black mark passing through the
 eye", which is not a character of the Song Thrush.

It is therefore hoped that *Turdus ericetorum* Turton be rejected, in
 favour of an old-established name *Turdus philomelos* Brehm, as
 indeterminate.

R. MEINERTZHAGEN: *Chairman of the Standing Committee.*

J. BERLIOZ: *Museum National d'Histoire Naturelle, Paris.*

E. STRESEMANN: *Zoologisches Museum der Universität, Berlin.*

JOHN T. ZIMMER: *The American Museum of Natural History, New
 York.*

2. Supplementary Note submitted by the Secretary to the Commission: On 24th March 1951 Mr. Hemming, as Secretary to the Commission, submitted the following note on certain procedural aspects of the present case which he had prepared in consultation with Colonel Meinertzhagen, the Chairman of the Standing Committee on Ornithological Nomenclature:—

On the proposed use of the Plenary Powers to secure that the trivial name “*philomelos*” Brehm, 1831, as published in the combination “*Turdus philomelos*”, shall be oldest available for the Song Thrush

By FRANCIS HEMMING, C.M.G., C.B.E.

(Secretary to the International Commission on Zoological Nomenclature)

1. The application submitted by the Standing Committee on Ornithological Nomenclature of the International Ornithological Congress is concerned to secure that the trivial name *philomelos* Brehm, 1831, as published in the combination *Turdus philomelos*, shall become the undisputed oldest available trivial name for the Song Thrush. For this purpose it will be necessary to remove the competition of the older trivial name *ericetorum* Turton, 1807, as published in the combination *Turdus ericetorum*, a name which by some specialists has been identified as a senior subjective synonym of the trivial name *philomelos* Brehm, but by others is regarded as a *nomen dubium*.

2. Prior to the Thirteenth International Congress of Zoology held in Paris in 1948, the provisions in the *Règles* relating to the method to be followed in determining the identity of the taxonomic species with which any given nominal species should be identified were of the most primitive and inadequate kind, consisting only of Article 31 which laid down the following rule: “La subdivision d’une espèce en deux ou plusieurs autres est soumise aux mêmes règles que la subdivision d’un genre”. Thus, by the objectionable device of legislation by reference, the Rules in Article 30 relating to the determination of the type species of a given nominal genus were applied (so far as applicable) to the determination of the type specimen of a nominal species. But the question of the trivial name to be applied to a given taxonomic species may sometimes depend (as in the case now submitted by the Standing Committee on Ornithological Nomenclature) upon an entirely different question, namely the procedure to be followed when there is a trivial name which all are agreed is applicable to the species in question but there is also an older trivial name which by some authors is regarded as being applicable to that species but by others as referring to some other known species or as being indeterminable. On this subject Article 31 was entirely silent.

3. During the revision of the *Règles* in Paris in 1948 particular attention was given to the need for substituting a clear and comprehensive set of rules in place of the totally inadequate provisions of the

existing Article 31. This subject was discussed at length at the Fourth Public Meeting held by the International Commission on Zoological Nomenclature during its Paris Session, when detailed proposals (subsequently approved by the Congress) were drawn up for an Article to replace the previous Article 31 (see 1950, *Bull. zool. Nomencl.* 4: 73—76). These new rules deal specifically with both aspects of the question involved: first the new rules provide expressly for the procedure to be followed in determining the lectotype of any given nominal species (or, in default of an actual lectotype, the single figure, illustration or previously published description cited in the original description of the nominal species concerned, to represent the lectotype of that species); second, the new rules lay it down that “where some but not all specialists claim to be able to recognise the taxonomic species represented by the nominal species in question or where there is disagreement among specialists as to the taxonomic species so to be recognised, the question at issue is to be referred to the International Commission on Zoological Nomenclature for decision”.¹

4. The present application falls to be dealt with under the provision quoted above. Under that provision, it is possible for the International Commission, according to the circumstances of the case, to put a stop to confusion, either (1) by prescribing the taxonomic species to which the disputed trivial name is to be held to be applicable, or (2) by using its Plenary Powers to suppress the trivial name in question. The second of these courses is that which the Standing Committee on Ornithological Nomenclature has asked the International Commission to adopt in the present instance. Accordingly, if the Commission approve the application submitted to it, it will be necessary for the Commission:—

- (1) to declare the specific name *Turdus ericetorum* Turton, 1807, to be a *nomen dubium*, and to use its Plenary Powers to suppress the trivial name *ericetorum* Turton, 1807, as published in the combination *Turdus ericetorum*, for the purposes of the Law of Priority but not for those of the Law of Homonymy;
- (2) to place the trivial name *philomelos* Brehm, 1831, as published in the combination *Turdus philomelos*, on the *Official List of Specific Trivial Names in Zoology*;
- (3) to place the trivial name *ericetorum* Turton, 1807, as published in the binominal combination *Turdus ericetorum*, as proposed, under (1) above, to be suppressed under the Plenary Powers for the purposes of the Law of Priority but not for those of the Law of Homonymy, on the *Official Index of Rejected and Invalid Specific Trivial Names in Zoology*.

¹ Article 31 was further examined in 1953 at Copenhagen by the Fourteenth International Congress of Zoology, which introduced various clarifications and amplifications (1953, *Copenhagen Decisions zool. Nomencl.*: 72—78, Decisions 136—150). The main structure of the Paris Settlement was not affected by the decisions taken at Copenhagen.

II.—THE SUBSEQUENT HISTORY OF THE CASE

3. Registration of the present application: Upon the receipt of Colonel Meinertzhagen's letter of 19th October 1950, the question of the use of the Commission's Plenary Powers for the purpose of securing that the specific name *philomelos* Brehm, 1831, should be the oldest available name for the Song Thrush was allotted the Registered Number Z.N.(S.)493.

4. Publication of the present application: The present application and Mr. Hemming's Supplementary Note, were sent to the printer on 30th January 1952 and were published in the *Bulletin of Zoological Nomenclature* on 15th October of that year (Meinertzhagen (Application by Standing Committee on Ornithological Nomenclature), 1952, *Bull. zool. Nomencl.* **9**: 62; Hemming (Supplementary Note), 1952, *ibid.* **9**: 63—64).

5. Issue of Public Notices: Under the revised procedure prescribed by the Thirteenth International Congress of Zoology, Paris, 1948 (1950, *Bull. zool. Nomencl.* **4**: 51—56), Public Notice of the possible use by the International Commission on Zoological Nomenclature of its Plenary Powers in the present case was given on 15th October 1952 (a) in Triple-Part 1/3 of volume 9 of the *Bulletin of Zoological Nomenclature* (the Part in which the application by the Standing Committee on Ornithological Nomenclature was published), (b) to the other prescribed serial publications and (c) to certain general zoological serials. In addition, such Notice was given also to fourteen serial publications or institutions specially concerned with ornithology. The names of the serials and institutions in question have been given in the *Opinion* (*Opinion* 401)² relating to the generic name *Colymbus* Linnaeus, the *Opinion* in which the Commission dealt with the first of the series of applications submitted by the Standing Committee on Ornithological Nomenclature.

6. Comments of a general character: The issue of the Public Notices specified above elicited thirty-seven comments of a general character relating to the cases of ornithological nomenclature published in Triple-Part 1/3 of volume 9 of the *Bulletin of*

² *Opinion* 401 has been published as Part 1 of the present volume.

Zoological Nomenclature. These comments came from ornithological institutions, groups of ornithologists and individual specialists. Of these comments, the authors of thirty-six gave general support to the applications published in the foregoing Triple-Part. The single remaining comment was from a specialist who was opposed to any use of the Commission's Plenary Powers. The communications so received have been reproduced in the Appendix annexed to *Opinion 401 (Colymbus)*³, those supporting the applications referred to above being given in Part 1, the single comment in opposition to the above applications being given in Part 2.

7. Comments directly related to the present application: Particular support for the present application was received from the following specialists and groups of specialists: (1) M. Noël Mayaud (*Faculté des Sciences de Paris, Laboratoire d'Evolution des Etres Organisés*); (2) a joint communication from Dr. Josselyn Van Tyne (*Ann Arbor, Michigan, U.S.A.*) and five other United States ornithologists; (3) Dr. W. B. Yapp (*University of Birmingham, Zoology Department, Birmingham, England*). One objection to the present application was received. This was a letter from Captain C. H. B. Grant (*British Museum (Natural History), London*), covering a statement signed by himself and five other British ornithologists. The communications so received are reproduced in the immediately following paragraphs.

8. Support received from M. Noël Mayaud (Faculté des Sciences de Paris, Laboratoire d'Evolution des Etres Organisés): On 17th March, 1953 M. Noël Mayaud (*Faculté des Sciences de Paris, Laboratoire d'Evolution des Etres Organisés*) addressed a letter to the Commission enclosing a number of notes on proposals relating to ornithological nomenclature published in Triple-Part 1/3 of volume 9 of the *Bulletin of Zoological Nomenclature*. The note furnished by M. Mayaud in regard to the present case was as follows:—

(8)⁴ Il paraît préférable de valider *philomelos* Brehm, 1831 (*Turdus*), le nom d'*ericetorum* étant sujet à interprétations différentes (cf. Dorst., Oiseau R. f.o., 1950, p. 222).

³ See footnote 2.

⁴ The number here cited by M. Mayaud for this application is that under which it appeared in the Prescribed Plenary Powers Notice on page 3 of volume 9 of the *Bulletin of Zoological Nomenclature*.

9. Support received from Dr. Josselyn Van Tyne and five other United States ornithologists: On 18th March 1953 Dr. Josselyn Van Tyne (*Ann Arbor, Michigan, U.S.A.*) and the five under-mentioned specialists addressed a letter to the Commission in support of the present application: (a) Robert W. Storer (*Museum of Zoology, University of Michigan, Ann Arbor, Michigan, U.S.A.*); (b) Andrew J. Berger (*Ann Arbor, Michigan, U.S.A.*); (c) Olin Sewall-Pettingill, Jr. (*Northfield, Minnesota, U.S.A.*); (d) Frank A. Pitelka (*Berkeley, California, U.S.A.*); (e) John Davis (*Los Angeles, California, U.S.A.*). The letter so received was as follows:—

We, the undersigned, wish to express our strong approval of proposal No. 8⁵ (concerning *philomelos* Brehm) published on page 3 of vol. 9 of the *Bulletin of Zoological Nomenclature*. We hope that your Commission will take favorable action on it.

10. Support received from Dr. W. B. Yapp (University of Birmingham, Zoology Department, Birmingham, England): On 10th December 1953 Dr. W. B. Yapp (*University of Birmingham, Zoology Department, Birmingham*) addressed a letter to the Commission in support of the present and certain other applications published in Triple-Part 1/3 of volume 9 of the *Bulletin of Zoological Nomenclature*. The following is an extract of the relevant portion of Dr. Yapp's letter:—

I should like to support very strongly the following cases referred to in *Nature* 172: 966: . . . (8)⁶ *philomelos*.

11. Objection received from Captain C. H. B. Grant (British Museum (Natural History), London) and five other British ornithologists: On 2nd April 1953 Captain C. H. B. Grant (*British Museum (Natural History), London*) addressed a letter to the Commission, covering a statement signed by himself and five other British ornithologists objecting to the action proposed in the present case. The five other signatories were: (a) Dr. J. M. Harrison (*Sevenoaks, Kent*); (b) Colonel O. E. Wynne (*Fording-bridge, Hants.*); (c) Mr. R. Wagstaffe (*City of Liverpool Public Museums, Liverpool*); (d) Lieutenant-Commander C. P. Staples

⁵ See footnote 4.

⁶ The number here cited is the number under which this application appeared in the Notices in the serial publication *Nature*.

(*Ickenham, Middlesex*); (e) Mrs. R. P. Hall (*London*). The statement so communicated was as follows:—

“*Turdus ericetorum*” Turton, 1807

Nomina conservanda have been unacceptable in ornithology from the days of Hartert and W. L. Sclater. In the B.O.U. List Brit. Bds. p.x, 1915, the authors gave nine specific and four generic *nomina conservanda*, but state that uniformity “can only be attained by keeping to the strict law of priority”. These nine specific *nomina conservanda* have been replaced by earlier valid names in the 1923 list, since when *nomina conservanda* have been completely discarded for the reason that a *nomen conservandum* is a synonym, arbitrarily adopted, despite an earlier valid name being available.

No such term is to be found in the A.O.U. Code 1886-1908, and at the Meeting of the A.O.U. Check List Committee in Montreal in October 1951, it was stated there was no intention to adopt any such procedures as *nomina conservanda*. It is noted that Dr. Zimmer is also of this opinion (see 1952, *Bull. zool. Nomencl.* 9: 34, 43.). W. L. Sclater, Hartert, Mathews, Bates, Whistler, C. B. Ticehurst, Roberts, Tucker, Glegg and Low did not accept *nomina conservanda*. Neither have the authors of the 1952 B.O.U. Check List, Bds. Gt. Brit. & Ireland. If a *nomen conservandum* is adopted a departure has been made from the established date of 1st January 1758. *Turdus ericetorum* Turton, is not indeterminable as shown by the List Committee of 1934, *Ibis*, p. 163, 1951, and *Bull. B.O.C.* 72, p. 72, 1952. This is a valid name for the British Song Thrush and is in all the recent standard works for the last nineteen years.

The Willughby Society reprints of rare works, Giebel's *Thes. Orn.*, Sherborn's *Ind. Anim.*, Neave's *Genera*, the *Zool. Record*, and other such works were carried out to bring published names to the notice of the public, so that the worker can adopt the first valid name after 1st January 1758 and ensure the avoidance of homonyms. If valid names are ignored, as the I.C.Z.N. now proposes, then the valuable work done by the above is nullified.

III.—THE DECISION TAKEN BY THE INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

12. Issue of Voting Paper V.P.(54)70: On 14th May 1954, a Voting Paper (V.P.(54)70) was issued in which the Members of the Commission were invited to vote either for, or against, “the proposal relating to the name for the Song Thrush as set out in

Points (1) to (3) in paragraph 4 on page 64 of volume 9 of the *Bulletin of Zoological Nomenclature* " [i.e. in the Points numbered as above in paragraph 4 of the Supplementary Note reproduced in paragraph 2 of the present *Opinion*].

13. The Prescribed Voting Period: As the foregoing Voting Paper was issued under the Three-Month Rule, the Prescribed Voting Period closed on 14th August 1954.

14. Particulars of the Voting on Voting Paper V.P.(54)70: At the close of the Prescribed Voting Period, the state of the voting on Voting Paper V.P.(54)70 was as follows:—

(a) *Affirmative Votes had been given by the following nineteen (19) Commissioners (arranged in the order in which Votes were received):—*

Boschma; Holthuis; Lemche; Dymond; Hering; Vokes; Esaki; Riley; Bonnet; Bradley (J.C.); Hemming; do Amaral; Pearson; Hankó; Mertens; Sylvester-Bradley; Jaczewski; Cabrera; Stoll;

(b) *Negative Votes:*
None;

(c) *Voting Papers not returned:*
None.

15. Declaration of Result of Vote: On 17th August 1954 Mr. Hemming, Secretary to the International Commission, acting as Returning Officer for the Vote taken on Voting Paper V.P.(54)70, signed a Certificate that the Votes cast were as set out in paragraph 14 above and declaring that the proposal submitted in the foregoing Voting Paper had been duly adopted and that the decision so taken was the decision of the International Commission in the matter aforesaid.

16. Preparation of the Ruling given in the present "Opinion": On 4th October 1955 Mr. Hemming prepared the Ruling given in the present *Opinion* and at the same time signed a Certificate that the terms of that Ruling were in complete accord with those of the proposal approved by the International Commission in its Vote on Voting Paper V.P.(54)70.

17. Original References: The following are the original references for the names placed on *Official Lists* and *Official Indexes* by the Ruling given in the present *Opinion*:—

ericetorum, *Turdus*, Turton, 1807, *Brit. Faun.* **1**: 35
philomelos, *Turdus*, Brehm, 1831, *Handb. Naturg. Vög. Deutschl.*: 322

18. At the time of the submission of the present application the name applicable to the second portion of a binomen was "trivial name". This was altered to "specific name" by the Fourteenth International Congress of Zoology, Copenhagen, 1953, which at the same time made corresponding changes in the titles of the *Official List* and *Official Index* of names of this category. These changes in terminology have been incorporated in the Ruling given in the present *Opinion*.

19. The prescribed procedures were duly complied with by the International Commission on Zoological Nomenclature in dealing with the present case, and the present *Opinion* is accordingly hereby rendered in the name of the said International Commission by the under-signed Francis Hemming, Secretary to the International Commission on Zoological Nomenclature, in virtue of all and every the powers conferred upon him in that behalf.

20. The present *Opinion* shall be known as *Opinion* Four Hundred and Five (405) of the International Commission on Zoological Nomenclature.

DONE in London, this Fourth day of October, Nineteen Hundred and Fifty-Five.

*Secretary to the International Commission
on Zoological Nomenclature*

FRANCIS HEMMING